

A radio station and cinder block plant conducted in a manner similar to commercial undertakings by a university exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code of 1954 constitute unrelated businesses as defined in section 513, and the income derived therefrom is taxable under the provisions of section 511, which impose a tax on unrelated business taxable income.

However, a laundry operated by a tax-exempt university primarily for the convenience of its students, officers or employees, comes within the exception of section 513(a)(2); therefore, the income derived from the laundry would not be taxable under the provisions of section 511.

Advice has been requested whether a university exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code of 1954 will be taxable under section 511 on income received from certain auxiliary enterprises including, among others, a radio station, a cinder block plant and a laundry.

The radio station was acquired by the university as a source of income to the school, to serve as a laboratory for training students in radio, as a medium for advertising the university and as a medium for adult education. It is affiliated with a network, is assigned a regular frequency and operates on a day and night basis. Although the station is used in part in carrying out the educational program of the university, the greatest portion of its time is devoted to activities conducted by regularly constituted commercial radio stations.

The cinder block plant was acquired by the university when it started construction of several buildings and needed concrete blocks. During the period that the buildings were under construction, the greatest portion of the plant's output was used by the university. It is the only cinder block plant in the community and presently is operated chiefly for the purpose of supplying cinder blocks to the general public, and not primarily for the college.

The university maintains a laundry and dry cleaning plant which is operated primarily to serve the student body and members of the faculty, although the general public may be served.

Section 511 of the Internal Revenue Code of 1954 imposes a tax on the unrelated business taxable income of certain organizations exempt from tax under section 501(c)(3) of the 1954 Code. The term 'unrelated business taxable income' as defined in section 512 of the 1954 Code means, with certain exceptions, additions, and limitations, the gross income derived by any organization from any unrelated trade or business regularly carried on by it, less allowable deductions directly connected with the carrying on of such trade or business. Section 513 of

the 1954 Code defines the term 'unrelated trade or business,' in the case of any organization subject to the tax imposed by section 511 of the Code, as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501 of the Code.

A trade or business not otherwise related does not become substantially related to an organization's exempt purpose merely because incidental use is made of the trade or business in order to further the exempt purpose. A trade or business is considered related if operated primarily as an integral part of the educational program of the university, but is considered unrelated if operated in substantially the same manner as a commercial operation.

In view of the foregoing, it is held that the radio station and the cinder block plant in the instant case, which are conducted in a manner similar to commercial undertakings by a university exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code of 1954, constitute unrelated businesses as defined in section 513, and the income derived therefrom is taxable under the provisions of section 511, which impose a tax on unrelated business taxable income.

However, the laundry operated by a tax-exempt university primarily for the convenience of its students, officers or employees, comes within the exception of section 513(a)(2); therefore, the income derived from the laundry would not be taxable under the provisions of section 511.